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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

COTTRELL L. BROADNAX, JR.,

Defendant and Appellant.

A135882

(Alameda County
Super. Ct. No. C165993)

Defendant Cottrell Broadnax, Jr., was convicted of false imprisonment, assault with a firearm, possession of a firearm by a felon, possession of a loaded firearm in a public place, and possession of base cocaine. The jury also found defendant had 14 prior convictions, including eight serious felony convictions. The trial court sentenced him to a total of 205 years to life. Defendant contends the trial court made several sentencing errors—(1) that it wrongly imposed five-year enhancements under Penal Code section 667, subdivision (a)¹ for prior serious felony convictions on counts as to which no enhancement could be made; (2) that it wrongly found defendant had suffered eight separate prior serious felony convictions under section 667, subdivision (a), when seven of the convictions occurred at a single jury trial; and (3) that it erroneously failed to stay the sentences for false imprisonment and one count of the firearm possession charges under section 654.

The Attorney General agrees defendant’s claims of sentencing error are meritorious, and we reach the same conclusion.

¹ All further statutory references are to the Penal Code.

DISPOSITION

Defendant's sentence is modified as follows: All felony enhancements imposed on counts 3, 4 and 5 pursuant to section 667, subdivision (a), are dismissed. In addition, six of the eight serious felony enhancements imposed on counts 1 and 2 are dismissed. As modified, defendant's sentence consists **on count 2** of a term of 25 years to life, plus 10 years for the gun use enhancement and an additional 10 years for the section 667, subdivision (a), enhancements; **on count 1**, an identical concurrent term; **on counts 3 and 5**, consecutive terms of 25 years to life; and **on count 4**, a concurrent term of 25 years to life. The sentences on counts 1 and 4, involving the same conduct as counts 2 and 3, respectively, are stayed under section 654. The trial court is directed to prepare an amended abstract of judgment reflecting defendant's sentence as so modified and forward a certified copy to the Department of Corrections.

Banke, J.

We concur:

Dondero, Acting P. J.

Sepulveda, J.*

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* Retired Associate Justice of the Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.